

1 THE HONORABLE MARSHA PECHMAN
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9
10 UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE

13 PAUL McTAGGART,
14 Plaintiff,
15 v.
16 ACE AMERICAN INSURANCE COMPANY,
17 Defendant.

18 Case No.: 12-01293 MJP

19 **DECLARATION OF RODNEY Q.
FONDA IN SUPPORT OF
DEFENDANT ACE AMERICAN
INSURANCE COMPANY'S
OPPOSITION TO PLAINTIFF'S
MOTION TO REMAND**

20 NOTED ON MOTION CALENDAR
21 August 24, 2012

22 I, Rodney Q. Fonda , being duly sworn, depose and state as follows:

23 1. I am over the age of 18 and am competent to testify to the matters set forth
24 herein. I am the attorney representing defendant ACE American Insurance Company ("ACE
25 American") in this matter. I submit this declaration in support of ACE American's Opposition
to Plaintiff's Motion to Remand, specifically plaintiff's counsel's declaration.

26 2. Some of the communications I have had with plaintiff's counsel regarding the
issue of removal are set forth in the declaration of plaintiff's counsel. What is set forth there is
not inaccurate in a literal sense. The parts plaintiff's counsel left out, however, distort the total
picture of the communications between counsel about this issue.

27 DECLARATION OF RODNEY Q. FONDA IN SUPPORT OF
28 DEFENDANT OPPOSITION TO MOTION TO REMAND - 1

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3. Plaintiff's counsel cites his communication of July 31, 2012 and quotes most of the e-mail; I have no quarrel with his representation of that communication.

4. Plaintiff's counsel states that "defense counsel responded" to this communication; in fact, I responded with an e-mail on August 3, 2012 in which, among other things, I pointed out that *Romero* was a Jones Act case.

5. Plaintiff's counsel is correct that he replied with an e-mail on August 8, 2012. The e-mail was sent at 10:51 AM and demanded a response by that same afternoon.

6. August 8, 2012 I was engaged with another case. I saw the e-mail from plaintiff's counsel at lunch time and responded, at 12:43 PM, "I will take another look but it will have to be tomorrow because I'm tied up today."

7. Before any further communication between counsel took place, the motion was filed, August 9, 2012.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing statements are true and correct.

DATED this 20th day of August, 2012, at Seattle, Washington.

By: /s/ Rodney Q. Fonda
Rodney Q. Fonda

CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2012, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Shane C. Carew (shane@carewlaw.com; carol@carewlaw.com)

DATED this 20th day of August, 2012.

COZEN O'CONNOR

By: */s/ Bonnie L. Enera*
Bonnie L. Enera, Legal Assistant

SEATTLE\1378329\1 324816.000